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EDITED BY WALTER L. BIERRING, M.D., Equitable Bldg., DES MOINES, IA.

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COURT DECISIONS

Enjoining from Practicing Without License—Chiropractic—"Harmless" Treatments

(Board of Medical Examiners vs. Freenor (Utah), 154 Pac. R. 941)

The Supreme Court of Utah affirms a judgment for the plaintiff, enjoining the defendant, a chiropractor, from practicing medicine within the state until he obtained a license. The court says that the first point sought to be made was that the alleged and found facts, if they constituted practicing medicine within the meaning of the statute, were criminal, and not invasions of property rights, and that equity would not lend its aid by injunction to restrain mere violations of public or penal statutes, except so far as it might be incidental to its enforcement of property rights or other matters of equitable cognizance. But Section 1737 of the Compiled Laws of Utah of 1907 provides that any person practicing medicine, surgery or obstetrics within the state contrary to law may, at the instance of the board of medical examiners, be enjoined therefrom by the district court, until he shall have been by said board lawfully admitted to practice; and, unless prevented by some constitutional provision, which was not claimed, the court thinks the legislature had the power to change, abolish or enact rules of equity, and hence it is of the opinion that the court, by reason of the statute, had jurisdiction to proceed as it did.

Taking up the question of whether or not the defendant practiced medicine within the meaning of the statute, the court says that the statute is not restricted to prescribing, giving, administering or applying drugs, medicine or other agency or remedy. It is broad and unrestricted, and by its language was intended to be so. The defendant's statements that he did not "diagnose any disease" or "the patient," that "he had nothing to do with the diseased part," and that all he did was "to look at the spine and vertebrae—analyze the spine—to ascertain whether there was any displacement or subluxation or any other abnormal condition of the vertebrae," and "whether there was pressure or an impingement of the nerves, or an interference with vital energy or force, or a hindrance of the normal flow of life energy producing the disease," were mere evasions and confusions of what, in fact, was diagnosis to ascertain the cause of the disease or ailment. So were his statements, "I don't treat the sick or ailing; I merely adjust their spine," etc. It is difficult to understand how removing,

or attempting to remove, the cause of an ailment is not treating, or attempting to treat, the ailment itself. Whatever merits or demerits the system of chiropractic may have, it is but egotism to assert that it is the only system which seeks to ascertain and remove causes of disease or ailments, and on that ground to claim it distinguishable from all other systems of treatment.

It was said that, if such a system as practiced by the defendant did no good, it did no harm, and that it was unlike administering powerful drugs or performing surgical operations from which ill consequences may follow unless in the hands of the skilful. However, that his treatments might be harmless would be no reason to permit him to violate the law. The statute does not say that one may operate on or treat an ailment of another so long as he does him no harm or shall not make him worse. But this oft-repeated statement does not bear scrutiny. Much harm may come to one afflicted with an ailment and seeking professional advice or aid from one incompetent to give it. There are many ailments in their acute stages which, if correctly diagnosed and properly treated, yield most readily, but, if not recognized and not properly treated, become, in their chronic stages, most stubborn and unyielding. It needs no argument to show the harm that may result by one without knowledge of ophthalmology attempting to treat some acute and virulent disease of the eye by attributing the cause of the disease to a subluxed vertebra of the neck causing "nerve pressure," not that the manipulation to reduce the pretended subluxation might itself do harm, but that in the meantime the disease, for want of recognition and proper attention, may have progressed to a stage where it no longer can be arrested.—*Jour. A. M. A.*

Sufficient Information; Title to Act; Evidence of Practicing Medicine

(*State vs. Erickson (Utah), 154 Pac. R. 948*)

The Supreme Court of Utah affirms a judgment of conviction of the defendant, a chiropractor, of practicing medicine without a license. The court says that the information was that he did "wilfully and unlawfully," on a day and at a place specified, "practice medicine without holding a lawful certificate or license issued by the state board of medical examiners of the state of Utah, by then and there diagnosing, treating, operating upon, and adjusting for the physical ailments of one Thomas E. Browning for a fee of $2, then and there paid by the said Thomas E. Browning to, and received by," the defendant. It was contended that the information was insufficient because it did not contain a sufficient statement of the acts constituting the offense, or the particular circumstances necessary to a complete offense. But the offense was stated in the language of the statute defining the practice of medicine, and where the statute defines the offense by the use of words which have a well recognized meaning, and designates the particular acts or means whereby the offense may be committed, to charge the offense substantially in the language of the statute is sufficient. Had the statute but declared that any person "practicing medicine" without a license or certificate was guilty of an offense, then it might well be argued that an information stating the offense must, to be good, be expanded beyond the language of the statute.

The court does not agree with the contention that the statute itself is unconstitutional because the subject is not clearly expressed in its title. The title is "An act for the regulation of the practice of medicine and

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COURT DECISIONS

Illegal Practice by Teacher of Chiropractic

(*People vs. Oakley* (*Calif.*), *158 Pac. R. 505*)

The District Court of Appeal of California, Second District, affirms a judgment of conviction of the defendant of having practiced a system and mode of treating the sick and afflicted without possessing a certificate issued by the state board of medical examiners entitling him so to do. The court says that, while the defendant's practice, as shown was as a teacher and demonstrator of the chiropractic system before a class in a chiropractic school, the subjects of such demonstration being the sick and afflicted who at his hands sought and received treatment free of charge, such fact did not exempt him from the operation of the law.—*Jour. A. M. A.*

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NEWS ITEMS

Chiropractic Bill Defeated.—A bill providing for the licensing of chiropractors by a special board under different educational qualifications than are required of physicians has been defeated in the Utah legislature.

Chiropractic College Sued.—A report states that the Ross Chiropractic College of Fort Wayne, Ind., has been sued for $10,000 damages because of the alleged treatment by a student who is said to have injured the spine of a patient and caused his death.

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Eclectic Board Declared Vacant.—Reports state that on March 2 Governor Catts of Florida declared vacant the State Board of Eclectic Medical Examiners. The grounds stated in the reports are that the board was giving fake doctors diplomas and licenses from extinct colleges for $300 to $500. It was also stated that several deaths had occurred from malpractice on the part of the men so licensed. The men reported as members of the eclectic board were Drs. George L. Dickerson, Jacksonville; Frank E. Gavlas, Lake Worth, and V. K. Jindra, Tampa. It is stated that as a result of a suit brought against him Dr. Jindra has become a fugitive from justice.

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Indictments in Medical Fraud.—Ten indictments were returned by the Cook County (Ill.) grand jury, December 22, following an investigation of a syndicate of supposed swindlers who last July, it is stated, attempted to obtain for students "other practitioners'" licenses from the Illinois State Board of Health. Fred D. Farr, a medical student and an alleged go-between, turned state's evidence, and the results of an investigation of the license mill were given by Dr. C. St. Clair Drake, secretary of the State Board of Health. The indictments returned as reported were against two physicians, Dr. Fred D. Fellows and Dr. Frank Achatz; against John Sharp, the Rev. I. O. Bennett, J. B. White and Mrs. Artilla Judd, respectively, president, principal, instructor and student of the Davenport College of Chiropractic; against Philip Gregg and Silas Wesley, medical students; against Charles Williams, a salesman of chiropractic supplies, and R. D. Moore, who posed as the "man higher up." Dr. Fellows is said to have been the "brains" of the gang.

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... study by all State

A CHIROPRACTIC DOCTOR FACTORY[1]

The so-called "American University"[2] is an excellent example of the travesties on education which are the direct result of the inexcusable custom in most of our states of granting charters to "educational" or degree granting institutions without first making inquiry regarding their ability or facilities for furnishing an education. Do the words "school," "academy," "college," and "university" really stand for educational institutions, or don't they?

So far as can be learned the American University owns no college building, no laboratories, no dispensaries and no hospitals; nevertheless, it brazenly professes to prepare "doctors" to treat all classes of human ailments. Its only habitation thus far discovered is a small suite of rooms on the third floor of an old office building in Chicago. This building bears no sign to indicate that it is a university, and in the directory in the entrance to the building only a close search reveals on the wall the

1. Reprinted, with additions, from *The Journal of the American Medical Association*, March 24, 1917.
2. See also "Making Doctors While You Wait," *Monthly Bulletin*, September, 1915, p. 71.

sign which indicates that the building houses so important a tenant! When the investigator wends his way to the third floor he discovers a door on the glass of which he reads:

"American University, 310-312. American College of Mechano-Therapy. F. S. Tinthoff, S. J. Tinthoff, W. L. LeBoy, M.D., E. Juhl, M.D."

Possibly the American College of Mechano-Therapy is another "department" of the "American University." At any rate, from reports it is quite evident that it is "a bird of the same feather."

Our present concern with the American University is in regard to its "Department of Chiropractic," which issues a pretentious announcement of sixty-four pages. This announcement sets forth such courses of instruction as it professes to give; contains many testimonials regarding the princely incomes being earned by chiropractors; shows a facsimile of its "beautiful diploma, handsomely lithographed," which is further described as having a "prepossessing appearance which will add to the professional dignity of any office;" and contains numerous other catch phrases intended to attract the dollars from the credulous and unwary.

What use, indeed, would this institution have of buildings, laboratories or equipment, since it makes no pretense of giving a resident course? In fact, its announcement does not mention such a course, but lauds its "extension," or home study course, by which chiropractic can be "more easily acquired than the other forms of healing."

Much stress is laid on the ease with which this home study course may be obtained. In fact, no preliminary education seems essential. Says the announcement: "You do not need a collegiate education to render you fit to study chiropractic. A common school education is all that is required." Even a common school education would not appear to be necessary for the course offered, and it would be a safe guess that no student was ever rejected for the lack of it. Says the catalog: "It does not require the years of education needed in other lines;" but some "students complete the work in four months." Even then a student need not spend all his time in study, but can "pursue his ordinary occupation while studying the course."

The greatest activity of this "university" is in its mailing department, and it is evidently doing a land office business—thanks to the leniency of the postoffice department in allowing it to use the mails. Within three months' time one of its "prospects" received five voluminous communications, containing altogether forty-five enclosures, including announcements, testimonials, booklets, vari-colored leaflets, etc. Extensive use is made of the system of "follow-up" letters containing the usual catchy subterfuges for separating dollars from the unwary, such as offers of courses costing $100, marked down to $68.75; allowing fees to be paid in instalments of $25, marked down to $12.75, or of $15, marked down to $8; offers of commissions for new students, and certificates offering free the first five lessons, if enrolment is sent in by a certain date.

Its announcements abound with statements calling the attention of the reader to the possibilities of "financial success" if he but invests his money with this school; of "the rewards that are awaiting" his command; the possibilities of "successful results" and of "reaping a rich harvest;"

the "opportunities for any chiropractor to earn from $1,200 to $12,000 per year;" that "chiropractic may be practiced with profit and success;" that it is "a most pleasant and profitable profession," etc., etc. The affair is distinctly a business proposition with a maximum pull for students with the fees they pay and a minimum of education in even the barest essentials of the knowledge required to intelligently diagnose or treat human ailments.

There are also the usual lot of comments running down physicians and the practice of medicine; reference to "noxious and poisonous drugs;" statements that "physicians are abandoning the old form for chiropractic," etc., etc.

What, indeed, is the use of spending ten or eleven long years in high school, college, medical laboratories, dispensaries and hospitals, with the expense of thousands of dollars, which such a course entails, when in four months of home study, while one is pursuing his regular occupation, and for only "$100, marked down to $68.75," he can secure from this institution a "beautiful diploma, handsomely lithographed," which (he is led to believe), will make him eligible to treat all classes of human ailments and to "reap a rich harvest" by exacting large fees from his credulous patients!

When with the five or six years of resident, all-day medical training required of physicians one compares the four or more *months correspondence* course required by the "American University Department of Chiropractic," it is possible to realize how serious a menace this and other like institutions are to the welfare of the public.

A "Bird's Eye View" of Chiropractic

After referring to a bill introduced into the Texas legislature which aims to remove chiropractors from the jurisdiction of the medical practice act and to provide for them lower educational standards, the *Texas State Journal of Medicine* for February gives the following "broadside" against chiropractors:

1. Chiropractors have no schools of such grade as to fit them for taking the examinations of the State Board of Medical Examiners.

2. Chiropractors who have been practicing in Texas for one year have done so in defiance of the law.

3. Chiropractors are uneducated osteopaths, confining their treatment to the spine, using a kind of modified osteopathic "stroke" and denying all causes of disease outside of impinged nerves.

4. Chiropractors deny germ and malignant origins of disease. They treat indifferently colds, asthma, consumption, cancer, smallpox, meningitis and every disease by "spinal adjustment."

5. The best of chiropractors can be but ignorant enthusiasts. From the standpoint of the people, they are dangerous, a menace to life and health, calculated to prey on the pockets as well as the physical well-being of the public.

6. The passage of this bill opens the way for the entrance into medical practice of all drugless healers and encourages every sort of pseudo-medical sect to secure a board.

7. The Chiropractic Bill, if passed, would probably render impossible the conviction of drugless healers for violation of the medical practice act, as it repeals a part or all of the definition of the practice of medicine in Section 13 of the present law and possibly the courts would decide that it destroyed the entire practice act as it violates the principle of a single standard for all medical practice.

We are informed also that a circular letter was given to each member of the legislature which contained the following statements:

As reasons for opposing the passage of the chiropractic bill, the following deserve consideration:

1. The present medical practice law does not discriminate against any system of practice. It admits upon an equal footing to the required examinations all applicants who present satisfactory evidence of having had the necessary preliminary education and training. Therefore, chiropractors who can meet these requirements are eligible to examination by and entitled to representation on the existing medical examining board.

2. The opposition to the proposed chiropractic law is based upon the opinion that the standard of efficiency set by the present law, which is the result of years of development, should not be lowered in favor of those who are not prepared to meet it.

3. That all reputable sects engaged in the art of healing recognize that adequate instruction in each of the twelve fundamental subjects, anatomy, physiology, chemistry, pathology, bacteriology, diagnosis, surgery, obstetrics, hygiene and jurisprudence—six of which are not incorporated in the proposed law—is necessary to an understanding of diseased conditions in order to correctly apply any particular method of treatment.

4. The present law does not permit examination upon materia medica, therapeutics or treatment; the only subjects upon which the various systems can differ.

5. As a safeguard of the public, it is imperative that all who profess to treat disease should be trained in each of the subjects omitted from the proposed law, for the following reasons:

(a) *Chemistry.*—That one may be capable of distinguishing Bright's disease or diabetes from a simple bladder affection, and know how to antidote deadly drugs, such as morphin, strychnin and carbolic acid.

(b) *Bacteriology.*—That one may differentiate simple bronchitis from consumption, or typhoid fever from malaria.

(c) *Diagnosis.*—That one may recognize dangerous contagious and infectious diseases, as smallpox, diphtheria, scarlet fever and meningitis, and protect the public against exposure to them.

That one may be capable of differentiating a simple stiffness of a joint, which may be cured by manipulation, from a tuberculous joint, in which such manipulation may occasion fatal aggravation; or a simple ulcer from cancer or syphilis.

(d) *Surgery.*—That one may know how to manage a ruptured appendix—which demands immediate operation—the pains of which are much like ordinary colic.

(e) *Gynecology.*—That one may not mistake a tumor of the abdomen for pregnancy.

(f) *Obstetrics.*—That one may be prepared to manage complications arising before, during or after childbirth, as convulsions or dangerous hemorrhage.

6. That the proposed law does not say that applicants for license shall have attended upon lectures or instructions in a chiropractic college. It requires only that the institution from which a diploma is issued shall exist for six months in each of two years, as shown by Section 3 therein.

That Section 9 of the proposed law repeals all laws or parts of law in conflict therewith.

The foregoing are a few of many valid reasons why future applicants for license to practice in this state should measure up to existing requirements.

COURT DECISIONS

Disclaimers by Chiropractor of No Avail — Attack on Law Not Sustained

(Teem vs. State (Tex.), 183 S. W. R. 1144)

The Court of Criminal Appeals of Texas, in affirming a conviction of defendant Teem of illegally practicing medicine, says it thinks there can be no sort of doubt but the testimony showed, as charged in the indictment, that he unlawfully practiced medicine, as denounced by law, and no honest jury could have done otherwise than find him guilty. It may be that colleges, from one of which he had a diploma, teach a new science of how to relieve "human beings" of some of the disorders or ills of this life, and effect cures thereof; but, if so, the evidence clearly demonstrated that the practice of it by the defendant, whatever it be named or called, as shown in this case, without a license, and proper record of it, violated both the spirit and the letter of the law. The fact that he studiously abstained from calling his work on patients a "treatment" of them, but instead an "adjustment of a displacement" of them, could have no possible effect to relieve him of the penalties of the law which he violated. No sort of substitution of other words for those used in the statute, or refraining from using them, could change the law. The fact that in his advertisements posted on his home and office and to his patients he stated specifically that he did not profess to do, nor do, the things that the statute denounces, yet, when it was unquestionably shown that he did those very things, could not possibly have the effect to put him without the pale of the law. His assertions in his advertisements and to his patients that he was not a doctor or surgeon, and that he did not treat disease, etc., was clearly an attempt to evade the law, and should

have deceived no one. No other practitioner of any other school of medicine, whether he be called doctor, surgeon or otherwise, or whatever his method or system, treats the disease, etc., as contradistinguished from the patient suffering from the disease, etc. They each and all treat the patient in order to relieve him from the disease and suffering, and thereby assist Nature to heal him, as the defendant was shown to have done the several persons, his patients, who testified herein. Each practitioner may have a different system or method, but the object and purpose of each is to accomplish the same result. The court can see no possible reason, and none was shown in this record, why the defendant should be exempted from procuring and registering his license to practice when every other practitioner from every other school is required to do so. His school of medicine, or science, or practice, or adjustment, or whatever he may choose to call it, is clearly embraced by the Texas law, as prohibiting him from practicing it on human beings for pay, without first procuring and having a license recorded. If he desires to practice his profession, and does, he should first procure and record his license to do so under the law, as every other practitioner is required to do, and does; and, if he refuses to do this, then he must suffer the penalty of his own acts. Nor does the court find anything to relieve him, in his contention, on a motion for rehearing, that the medical practice act, as it now appears in the revised civil statutes and penal code, was not in fact enacted at the time it purports to be, but that the act, as it first reached the governor's hands, instead, was enacted and became the law, and that, therefore, he was convicted under what purported to be the law, but which in fact and reality was not the law. The court considers that, in any and all events, the law under which the defendant was convicted was in every way valid and legal.

Sufficient Information, Admissible Evidence, and Reasonable Requirements

(People vs. Ratledge (Calif.), 156 Pac. R. 455)

The Supreme Court of California, in affirming a judgment of conviction of the defendant, says that the information was attacked on the ground that it charged "the crime of practicing medicine without a certificate from the medical board," the contention being that no such crime is denounced by the law. It is true that the statute does not contain the quoted words, but clearly they were used merely for purposes of general description of the offense as they were followed by the averment that the crime was "committed as follows: That the said T. F. Ratledge on the 30th day of October, 1914, at, and in the county of Los Angeles, state of California, did wilfully and unlawfully practice, attempt to practice and advertise and hold himself out as practicing a system and mode of treating the sick and afflicted in the state of California, without then and there having a valid, unrevoked certificate authorizing him to practice a system or mode of treating the sick and afflicted in this state from the board of medical examiners of the state of California." This sufficiently charged violation of Section 17 of the

medical practice act (Statutes of 1913, page 734), and was not open to the criticism that it sought to impute many offenses to the defendant because any one of the acts or omissions averred and conjunctively pleaded would suffice as the basis of an information.

The defendant complained of the trial court's refusal to strike out parts of certain answers of witnesses who stated that they had received "treatments" from him. It was regarded by him as an unwarranted conclusion of a witness that certain acts constituted a "treatment." The objection was without force. Doubtless the witnesses used the word in its well understood signification; that is, the application of some supposed curative agency to the person seeking relief. Again, a witness was permitted over the defendant's objection to detail the occurrences on the occasion of a visit by her to his office nearly six months before the time set forth in the information. The objection was on the usual grounds of incompetency, etc., and that the time was too remote. But the evidence was competent as tending to show the intent and motive of the defendant in the commission of the acts charged in the information, and it was not too remote. Courts are allowed a wide discretion with respect to the periods of time covered by such testimony.

The defendant offered to prove that the state board of medical examiners held no examination for chiropractors; but the proffered proof was properly rejected. The only question with which the court was concerned was whether or not the defendant was practicing without a license. The fairness or unfairness of the board of medical examiners was not a question before the court. If the defendant was unlawfully excluded from examination, that was something which he might have remedied by application to a court of equity, but it would be no defense to a charge of practicing without a license.

The argument was made that because the law includes such subjects as histology, elementary chemistry, toxicology, physiology, elementary bacteriology, and pathology in the examinations to be taken by applicants for certificates to practice as drugless healers, it is unfair, because these are standard courses of study in the preparation of physicians and surgeons, but are not needed in the art of those who intend to alleviate human suffering by manual and mechanical means only. The answer is that to the legislature is committed the duty of determining the amount and quality of scientific education necessary for the individual to possess before he may hold himself out to practice the healing art. Unless the legislative conclusion on that subject is obviously unfair this court may not interfere, for the scope of the police power is very extensive, and the discretion of the legislature in exercising such power is very broad. The court concludes that there is nothing unreasonable in the curriculum prescribed by the medical practice act for those wishing to secure licenses to practice the art of drugless healing.—*Jour. A. M. A.*

Gifts to Education

Gifts and bequests to education amounted to $31,357,398 in 1914, of which $26,670,017 was for universities and colleges, $1,558,281 for theological schools, and $1,495,773 for law schools. Since 1896 sums aggregating $407,000,000 have been given to educational institutions by private donors.—*Report, U. S. Bureau of Ed.*

Medical Practice Act and Diagnosis

(People vs. Jordan (Calif.), 156 Pac. R. 451)

The Supreme Court of California, in affirming a conviction of the defendant of having engaged in the practice of a system or mode of treating the sick and afflicted without having a certificate authorizing him so to do, holds that the objection was without merit that the title of the act under which the defendant was prosecuted (statutes of 1913, page 722) is not sufficient in its expression of the purposes declared in the body of the act itself. Nor does the court agree with the contention that the act violates certain constitutional provisions in that it is discriminatory in exempting from its provisions a certain class of drugless practitioners, namely, those who resort to prayer as a means of treating persons afflicted with bodily ills. The court says that it was argued that the act is discriminatory because the prohibitory words thereof make it unlawful for any one of those who fall within its description to "diagnose" disease. It was said that to "diagnose" disease does not necessarily involve an intention on the part of the diagnostician either to treat the afflicted person or to prescribe for him in any way, and that to require no diagnosis from those who profess to treat disease by prayer while prohibiting all other unlicensed persons from diagnosing various ailments is an unjust and unconstitutional regulation, favoring one class of citizens unduly. This whole argument rests on a misconception of the meaning of the term "diagnose." As used in pathology the word means "to determine the diagnosis of; to ascertain, as a disease from its symptoms" (Century Dictionary); it means "the recognition of a disease from its symptoms." Diagnosis is as much a part of the practice of medicine as is the administration of remedies, and it is a vastly more important branch thereof because, generally speaking, the treatment of disease is governed by the practitioner's theory regarding its cause. Intelligent treatment may follow only correct diagnosis. It was argued that diagnosis is merely "guessing," but that is only partially true. It is a matter of common knowledge that in the present development of microscopy, chemistry, bacteriology, radiography and kindred sciences there are some diseases which may be detected with absolute certainty by the accomplished diagnostician. But even where it depends partly on conjecture, real diagnosis is the product of knowledge and experience. The Supreme Court of the United States has declared diagnosis to be a part of the practice of the healing art, even in systems of treatment which do not deal with administration of remedies, but with mechanical adjustment of parts of the human body (*Collins* vs. *Texas*, 223 U. S. 288). It is impossible to dissociate diagnosis from the practice of the art of healing by any physical medical, mechanical, hygienic or surgical means. It is competent, therefore, for the legislature to permit only those persons who are proficient and who have been found to be educated up to certain standards to "diagnose" ailments. The objection that those who profess to treat bodily afflictions by prayer are not required to be proficient in diagnosis, and that their exemption, under the law, is the extension of a favor to them which is withheld from others, is met by the obvious answer that diagnosis is no part of such treatment. Those who believe that divine power may be invoked by prayer for the healing of the body believe also